

## **II. REMARKS**

### **A. Status of the Claims**

Claims 6, 24, 35 and 37 have been amended without prejudice or admission to recite that a hydrophobic polymer is “selected from the group consisting of a cellulosic polymer, an acrylic polymer, and mixtures thereof.” Support for this amendment can be found, e.g., on page 10, line 10, to page 11, line 2.

Claim 13 has been amended without prejudice or admission for clarity.

It is respectfully submitted that no new matter has been added by virtue of the present amendments.

Claims 6-8, 13-16, 24 and 27-41 are pending.

### **B. Substance of Interviews**

In accordance with the provisions of 37 CFR 1.133, Applicants herein make of record the substance of telephone interviews conducted on January 21, 2010 and January 27, 2010, between the undersigned attorney and Examiner Yong Soo Chong.

During the January 21, 2010 interview, the undersigned attorney explained the arguments from the response filed on July 13, 2009, and the response filed on December 21, 2009.

In response, the Examiner indicated that the application would be allowed if Applicants file (i) terminal disclaimers over U.S. Patent No. 5,958,459 and U.S. Patent No. 6,143,322; and (ii) an Amendment amending each independent claim to define hydrophobic polymers in these claims (e.g., as recited in claim 13).

The undersigned attorney inquired whether amending each independent claim to recite that a hydrophobic polymer is “selected from the group consisting of a cellulosic polymer, an acrylic polymer, and mixtures thereof” would expedite allowance.

On January 27, 2010, the Examiner indicated that if such amendments are made and terminal disclaimers over U.S. Patent No. 5,958,459 and U.S. Patent No. 6,143,322 are filed, the present application will be allowed.

Applicants respectfully note that each independent claim has been amended to recite that a hydrophobic polymer is “selected from the group consisting of a cellulosic polymer, an acrylic polymer, and mixtures thereof” and that terminal disclaimers over U.S. Patent No. 5,958,459 and U.S. Patent No. 6,143,322 are being filed concurrently with the present response.

Applicants respectfully request that substance of these interviews is made of record.

**C. Double Patenting**

Claims 6-8, 13, 24 and 27-38 were rejected under judicially created doctrine of obviousness-type double patenting over claims 1-19 of the grandparent case (U.S. Patent No. 5,958,459).

Claims 6-8, 13, 24 and 27-38 were rejected under judicially created doctrine of obviousness-type double patenting over claims 1-13 of the parent case (U.S. Patent No. 6,143,322).

In response, Applicants submit herewith terminal disclaimers over U.S. Patent No. 5,958,459 and U.S. Patent No. 6,143,322.

Applicants state that filing of these terminal disclaimers shall not be construed as an admission of (i) the propriety of the rejections, or (ii) that the present claims are not patentably distinct from the claims of U.S. Patent No. 5,958,459 or U.S. Patent No. 6,143,322. *See, e.g., MPEP, section 804.02(II) (“[t]he filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the “filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection”).*

Also submitted herewith is a Statement under 37 C.F.R. § 3.73(b).

**C. Claim rejection under 35 U.S.C. §103**

Claims 6-8, 13-16, 24 and 27-41 were rejected under 35 U.S.C. §103(a) over Goldie et al. (U.S. 4,844,909) in view of Oshlack et al. (U.S. Patent No. 5,286,493).

The rejection is respectfully traversed, as the combination of the cited references does not teach or suggest stabilized dosage forms utilized in the presently claimed methods.

To expedite allowance, independent claims 6, 24, 35 and 37 were amended to recite that a hydrophobic polymer is “selected from the group consisting of a cellulosic polymer, an acrylic polymer, and mixtures thereof.”

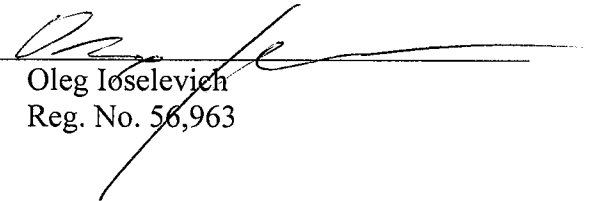
The Examiner indicated during the January 27, 2010 interview, that such amendments will result in the allowance of the present application.

Accordingly, withdrawal of the rejection and allowance of the present application is respectfully requested.

**III. CONCLUSION**

Allowance of the present application is earnestly solicited. The Examiner is specifically authorized to contact the undersigned by telephone in the event a telephone interview would advance the prosecution of the application.

Respectfully submitted,  
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